

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO.: 10-2009

TO: ALL WORKERS' COMPENSATION POLICYHOLDERS, THIRD PARTY ADMINISTRATORS, ARKANSAS WORKERS COMPENSATION COMMISSION, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND OTHER INTERESTED PARTIES.

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: REMINDER OF WORKERS' COMPENSATION REPORTING REQUIREMENTS PURSUANT TO ARK. CODE ANN. § 11-9-106

DATE: AUGUST 6, 2009

It has come to the attention of the Department that some employers have been making direct payments for medical bills incurred on small workers' compensation claims, both with and without the knowledge of their insurer.

Please be advised that directly paying medical bills for injured employees may be considered a violation of Ark. Code Ann. §11-9-106(a), which deals with making materially false representations for the purpose of avoiding payment of the proper insurance premium.

Some employers and insurers are operating under the mistaken impression that Ark. Code Ann. §11-9-813, which authorizes insurers to offer deductibles to policyholders, also authorizes an employer to make direct payments on claims under the deductible amount. The law simply does not allow for such direct payments, WITH OR WITHOUT A VALID DEDUCTIBLE PROGRAM.

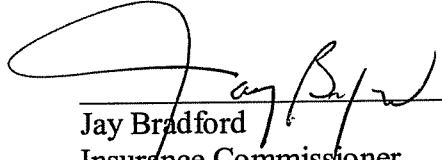
Even with an authorized deductible program, all claims must be submitted for "first dollar" payment by the insurer. The insurer will be reimbursed by the employer for any deductible amounts paid by the insurer.

It is obvious that failure to report any worker injuries would affect an employer's experience rating and payment of the proper premium based thereon. History has already shown that employers who pay deductibles directly often negligently or intentionally fail to fully inform the insurer of worker injuries.

Therefore, if you are aware of such direct payments being made, you are advised to immediately notify the employer to cease this practice. Moreover, all payments must be reported under the

new Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007. Failure by the employer to do so may result in a criminal penalty or other violations of state or federal law.

Inquiries concerning the deductible program should be directed to Carol Stiffler, Property and Casualty Division, at (501)371-2807. Reports of possible fraudulent activity should be directed to Greg Sink, Criminal Investigation Division, at (501) 371-2790.



Jay Bradford
Insurance Commissioner
State of Arkansas

8-12-09
Date